

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION

LAVAR KINNELL ELLIS
Reg. 24558-009

PETITIONER

V. CASE NO. 2:19-CV-00043-KGB-JTK

DEWAYNE HARRIS, Warden
FCI-Forrest City

RESPONDENT

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge Kristine G. Baker. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.

2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

On April 11, 2019, the Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (DE # 1) On May 6, 2019, the Court entered an order stating that if the Petitioner wished to proceed with the action, he must pay the filing fee or file a properly completed Application to Proceed In Forma Pauperis. (DE # 2) The docket reflects that the application was forwarded to the Petitioner on May 6, 2019. The Court also informed the Petitioner that a failure to follow such orders would result in dismissal of his action pursuant to Local Rule 5.5(c)(2). As of today’s date, Petitioner has not responded to the Court’s order.

United States District Court for the Eastern District of Arkansas Local Rule 5.5(c)(2) states as follows:

Parties appearing *pro se*. It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

It has been more than two (2) months since the Court directed the Petitioner to either pay the filing fee or complete his Application to Proceed In Forma Pauperis; therefore, it is recommended that his 28 U.S.C. § 2241 petition for writ of habeas corpus (DE # 1) be denied, and dismissed without prejudice.

SO ORDERED this 17th day of July, 2019.

A handwritten signature in black ink, consisting of a stylized 'K' with a large loop and a long horizontal stroke extending to the right.

UNITED STATES MAGISTRATE JUDGE